

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 25-4402**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DESHAWN STEPHONE HESTER,

Defendant - Appellant.

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Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. Loretta C. Biggs, Senior District Judge. (1:24-cr-00207-LCB-1)

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Submitted: April 23, 2026

Decided: April 27, 2026

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Before NIEMEYER, THACKER, and HARRIS, Circuit Judges.

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Affirmed in part and dismissed in part by unpublished per curiam opinion.

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**ON BRIEF:** Todd A. Smith, SMITH GILES PLLC, Burlington, North Carolina, for Appellant. Julie Carol Niemeier, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Greensboro, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Deshawn Stephone Hester pled guilty, pursuant to a written plea agreement, to two counts of possession of a firearm by a convicted felon, in violation of 18 U.S.C. §§ 922(g)(1), 924(a)(8). The district court sentenced him to 97 months' imprisonment. On appeal, counsel has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), stating that there are no meritorious grounds for appeal but questioning the validity of Hester's guilty plea and appeal waiver and the reasonableness of his sentence. Although notified of his right to do so, Hester has not filed a pro se supplemental brief. The Government moves to dismiss Hester's appeal pursuant to the appellate waiver in his plea agreement. We affirm in part and dismiss in part.

The waiver provision in the plea agreement does not preclude our review pursuant to *Anders* of the validity of the guilty plea. See *United States v. McCoy*, 895 F.3d 358, 364 (4th Cir. 2018). Before accepting a guilty plea, the district court must conduct a plea colloquy in which it informs the defendant of, and ensures that the defendant understands, the rights he is relinquishing by pleading guilty, the nature of the charges to which he is pleading guilty, and the possible consequences of his guilty plea. Fed. R. Crim. P. 11(b)(1); *United States v. DeFusco*, 949 F.2d 114, 116 (4th Cir. 1991). The court must also ensure that the plea is voluntary and not the result of threats, force, or promises extrinsic to the plea agreement, and that a factual basis exists for the plea. Fed. R. Crim. P. 11(b)(2), (3). "A properly conducted Rule 11 plea colloquy raises a strong presumption that the plea is final and binding." *United States v. Walker*, 934 F.3d 375, 377 n.1 (4th Cir. 2019) (internal quotation marks omitted).

Because Hester did not seek to withdraw his guilty plea, we review the adequacy of the Fed. R. Crim. P. 11 hearing for plain error. *United States v. Williams*, 811 F.3d 621, 622 (4th Cir. 2016); see *United States v. Harris*, 890 F.3d 480, 491 (4th Cir. 2018) (discussing plain error standard). Our review of the record leads us to conclude that Hester entered his guilty plea knowingly and voluntarily, that a factual basis supported the plea and all elements of his offenses, and that his guilty plea is valid.

Next, “[w]e review an appellate waiver de novo to determine whether the waiver is enforceable” and “will enforce the waiver if it is valid and if the issue[s] being appealed fall[] within the scope of the waiver.” *United States v. Boucher*, 998 F.3d 603, 608 (4th Cir. 2021) (internal quotation marks omitted). An appellate waiver is valid if the defendant enters it “knowingly and intelligently, a determination that we make by considering the totality of the circumstances.” *Id.* “Generally though, if a district court questions a defendant regarding the waiver of appellate rights during the Rule 11 colloquy and the record indicates that the defendant understood the full significance of the waiver, the waiver is valid.” *McCoy*, 895 F.3d at 362 (internal quotation marks omitted). Our review of the record confirms that Hester knowingly and intelligently waived his right to appeal his convictions and sentence, with limited exceptions not applicable here. We therefore conclude that the waiver is valid and enforceable.

In accordance with *Anders*, we have reviewed the entire record in this case and have found no potentially meritorious grounds for appeal outside the scope of Hester’s valid appellate waiver. We therefore grant the Government’s motion to dismiss in part and

dismiss the appeal as to all issues covered by the waiver. We affirm as to any issue not encompassed by the waiver.

This court requires that counsel inform Hester, in writing, of the right to petition the Supreme Court of the United States for further review. If Hester requests that a petition be filed, but counsel believes that such a petition would be frivolous, then counsel may move in this court for leave to withdraw from representation. Counsel's motion must state that a copy thereof was served on Hester. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

*AFFIRMED IN PART,  
DISMISSED IN PART*